

Message Text

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ACTION EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 SS-15 NSC-10 L-03 H-03

SCA-01 RSR-01 PA-03 PRS-01 USIA-15 /109 W

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R 141705Z AUG 73

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 3313

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E.O. 11652: N/A

TAGS: ETRN, UK

SUBJ: CIVAIR - AFFINITY CHARTERS

REF: STATE 158642

1. SUMMARY. DEPARTMENT TRADE AND INDUSTRY (DTI) CALLED IN EMBASSY'S CIVAIR ATTACHE TO EXPRESS GROWING UK CONCERN OVER ABUSES BY US AIRLINES OF AFFINITY CHARTER RULES. PARTICULAR CONCERN AT PRESENT IS OVER ALLEGED VIOLATIONS BY OVERSEAS NATIONAL AIRWAYS (ONA). ENFORCEMENT PROBLEMS MAY INFLUENCE UKG ATTITUDE TOWARD POSSIBLE EXTENSION AFFINITY RULES. SUGGESTION MADE THAT COORDINATION OF US/UK ENFORCEMENT EFFORTS MIGHT HELP RESOLVE PROBLEM. ACTION REQUESTED: US VIEWS ON POSSIBILITY OF COORDINATING ENFORCEMENT EFFORT WITH UK. END SUMMARY.

2. AT UK REQUEST, EMBOFF MET ON AUGUST 13 WITH DTI OFFICIALS (ROGERS AND GARDINER) TO DISCUSS UK CONCERN OVER ALLEGED VIOLATIONS BY US CARRIERS OF AFFINITY CHARTER RULES. UK POSITION BRIEFLY SUMMARIZED IN INFORMAL PAPER HANDED TO EMBOFF WHICH READS AS FOLLOWS:

"WE ARE GRAVELY CONCERNED AT THE CONTINUED ABUSES BY UNITED STATES AIRLINES OF THE AFFINITY GROUP RULES.

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CHECKS RECENTLY HAVE BROUGHT TO LIGHT A CONSIDERABLE

NUMBER OF CASES WHERE UNENTITLED PASSENGERS HAVE BEEN CARRIED.

"IN PARTICULAR WE ARE CONCERNED AT THE ATTITUDE OF OVERSEAS NATIONAL AIRWAYS WHO SEEM TO US TO HAVE LITTLE REGARD EITHER TO THE RULES GOVERNING AFFINITY GROUP TRAVEL OR TO THE CONDITIONS OF THE PERMIT ISSUED TO THEM. IT APPEARS TO US THAT THE AIRLINE TAKES THE VIEW THAT THE ENTIRE RESPONSIBILITY FOR ENSURING COMPLIANCE WITH BRITISH REGULATIONS RESTS WITH THE CHARTERER, A VIEW WHICH WE CANNOT ACCEPT. IN ANY EVENT IN A RECENT CASE THEY HAVE FREELY ADMITTED CARRYING PASSENGERS NOT ON THE LIST SUBMITTED, AND NOT EVEN ORGANISED BY THE SAME CHARTERER.

"A MORE REALISTIC BUT STILL UNACCEPTABLE ATTITUDE IS SHOWN BY ANOTHER US SUPPLEMENTAL (SIC) WHO STATE FRANKLY THAT AT ANY RATE IN CASES OF SUBCHARTER THEY HAVE NO MEANS OF CHECKING THAT THE CONDITIONS OF THE PERMITS ARE ADHERED TO." (WE UNDERSTAND DTI IS REFERRING TO SEABOARD WORLD AIRLINES.)

3. DTI HAS SUPPLIED US WITH SPECIFIC DETAILS ON THREE INCIDENTS CONCERNING ONA. WE ARE POUCHING THESE TO EB/OA. INCIDENTS INVOLVED 17, 50 AND 6 PASSENGERS IN MAY, JULY AND AUGUST RESPECTIVELY. ALL TRAFFIC WAS US-ORIGINATING. JULY INCIDENT INVOLVING 50 PASSENGERS IS REGARDED BY DTI AS PARTICULARLY FLAGRANT VIOLATION IN THAT AIRLINE WAS INFORMED AT TIME OF CHECK-IN THAT 50 PASSENGERS WERE, BY THEIR OWN ADMISSION, INELIGIBLE FOR AFFINITY TRAVEL, BUT AIRLINE CARRIED THEM ANYWAY. (ONA SAYS IT WAS INFORMED OF PROBLEM HALF HOUR BEFORE PLANNED DEPARTURE, COULD NOT CHECK BONA FIDES OF ALLEGED INELIGIBLES BUT TRIED NEVERTHELESS TO BOOK THEM ON SCHEDULED FLIGHT OUT OF GATWICK. WHEN NO SCHEDULED SEATS AVAILABLE, ONA DECIDED TO CARRY THEM.) AS RESULT OF THESE INCIDENTS, ONA HAS BEEN PLACED ON NOTICE THAT FUTURE ISSUANCE OF CHARTER PERMITS WILL BE UNDER REVIEW UNLESS ONA CAN SATISFY DTI THAT ALL REASONABLE CARE IS BEING TAKEN BY CARRIER TO ENSURE THAT ONLY ELIGIBLE LIMITED OFFICIAL USE

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TRAFFIC IS BOARDED AT POINT OF ORIGIN.

4. DTI SAYS US CARRIERS ARGUE THAT RESPONSIBILITY FOR DETERMINING ELIGIBILITY OF MEMBERS OF AFFINITY GROUPS RESTS WITH TRAVEL ORGANIZER. DTI MAINTAINS THIS IS AIRLINES RESPONSIBILITY, PARTICULARLY IN CASES WHERE AFFINITY GROUPS IS FOREIGN-ORIGINATING AND TRAVEL ORGANIZER BEYOND REACH UK PROSECUTION FOR VIOLATIONS. DTI

SYAS WHEN AFFINITY VIOLATIONS ARE FOUND IN CONNECTION WITH UK-ORIGINATING TRAFFIC, PROSECUTION CAN BE HANDLED THROUGH UK COURTS. HOWEVER, IN CASE OF FOREIGN-ORIGINATING TRAFFIC, IT VIRTUALLY IMPOSSIBLE FOR DTI TO PROSECUTE BECAUSE EVIDENCE IN PROCEEDINGS (I.E. INELIGIBLE PASSENGERS) ALLOWED TO RETURN TO HOMELAND. TAKING OF SWORN STATEMENTS AT TIME VIOLATIONS FOUND NOT CONSIDERED PRACTICAL BECAUSE OF TIME FACTOR AND PRESSURES ON TRAVELER TO GIVE FALSE STATEMENT RATHER THAN BE SUBJECTED SERIOUS DISRUPTION OF TRAVEL PLANS. AWKWARDNESS OF UK POSITION HAS LED ENFORCEMENT OFFICIALS TO TAKE INFORMAL STATEMENTS FROM PASSENGERS RE LENGTH OF MEMBER SHIP IN AFFINITY GROUP, HOW TICKET ACQUIRED, ETC., AND, WHEN APPARENT VIOLATIONS FOUND, TO INFORM CARRIER OF EVIDENCE. ENFORCEMENT OFFICIALS DO NOT REPEAT NOT DENY BOARDING TO APPARENTLY UNENTITLED PASSENGERS. IT IS UP TO AIRLINE EITHER TO PROVE TO ENFORCEMENT OFFICIAL THAT PASSENGERS ELIGIBLE (NORMALLY NOT POSSIBLE WITH FOREIGN-ORIGINATING CHARTER) OR TO MAKE ALTERNATIVE TRAVEL ARRANGEMENTS FOR INELIGIBLES ABOARD SCHEDULED SERVICE.

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5. IN RESPONSE TO EMBOFF'S QUESTION AS TO HOW MANY OTHER AFFINITY VIOLATIONS UK HAS FOUND THIS SEASON, GARDINER SAID THAT UNTIL VERY RECENTLY ENFORCEMENT BRANCH BADLY UNDERSTAFFED AND MANY FLIGHTS HAVE ARRIVED AND

DEPARTED UNINSPECTED BUT THAT ON "A NUMBER OF FLIGHTS" THAT WERE INSPECTED VIOLATIONS HAVE BEEN FOUND. IN CASES OF UK-ORIGINATING CHARTERS, PROSECUTIONS ARE UNDERWAY; IN CASES OF US-ORIGINATING CHARTERS, CARRIERS HAVE PLACED INELIGIBLE PASSENGERS ON SCHEDULED SERVICE. GARDINER STRESSED, HOWEVER, THAT THIS REMEDY NOT SUFFICIENT AND THAT CARRIERS WILL BE REQUIRED TO PROVE THEY ARE TAKING ADEQUATE PRECAUTIONS AT POINT OF ORIGIN. IF VIOLATIONS CONTINUE, HE SAID, OFFENDERS WILL HAVE PERMIT APPLICATIONS DISAPPROVED.

6. EMBOFF TOLD DTI OFFICIALS US HAS STRONG INTEREST IN CONTINUATION OF AFFINITY RULES AND WE ARE AS CONCERNED AS UK TO ENSURE THAT RULES WORK PROPERLY AND THAT OFFENDERS ARE APPROPRIATELY DEALT WITH. HE SAID WE HOPED THAT RELATIVELY FEW VIOLATIONS FOUND WOULD NOT BE USED BY UK AS BASIS FOR DECISION TO ABOLISH AFFINITY RULES. ROGERS SAID INCREASE IN ENFORCEMENT STAFF WOULD PROBABLY REVEAL VIOLATIONS OF RULES ARE CONSIDERABLY MORE WIDESPREAD THAN NOW APPARENT. IN ANY EVENT, HE SAID, UK INABILITY ADEQUATELY TO ENFORCE RULES ON LIMITED OFFICIAL USE

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FOREIGN-ORIGINATING CHARTERS MUST, OF NECESSITY, INFLUENCE UK ATTITUDE TOWARD CONTINUATION OF AFFINITY RULES.

7. EMBOFF SUGGESTED CAB'S BUREAU OF ENFORCEMENT WOULD PROBABLY BE INTERESTED IN ANY EVIDENCE UK UNCOVERS CONCERNING VIOLATIONS. ROGERS IMMEDIATELY PICKED THIS UP AND ASKED WHETHER CAB MIGHT BE ABLE INTERCEPT AT US PORT OF ENTRY CHARTER FLIGHTS CARRYING PASSENGERS WHICH UK INSPECTORS HAVE FOUND TO BE INELIGIBLE OR, ALTERNATIVELY WHETHER CAB MIGHT BE ABLE FOLLOW-UP INVESTIGATION IN US ON APPARENT VIOLATIONS DETECTED IN UK. ROGERS SAID UNLESS SOME WAY FOUND TO COORDINATE UK/US ENFORCEMENT MEASURES TO ENSURE THAT OFFENDING CARRIERS ARE IN FACT PUNISHED FOR NON-COMPLIANCE, HE DID NOT SEE HOW IT WOULD BE POSSIBLE FOR UK TO AGREE TO CONTINUATION OF AFFINITY RULES NEXT SEASON. EMBOFF AGREED QUERY WASHINGTON CONCERNING POSSIBILITY OF COORDINATING ENFORCEMENT EFFORT ON US-ORIGINATING AFFINITY CHARTERS.

8. COMMENT: WITH BRITISH SUPPLEMENTALS VIRTUALLY OUT OF US AFFINITY MARKET AND WITH BOAC AND BCAL DOING RATHER POORLY IN IT, WE BELIEVE ROGERS FINDS HIMSELF UNDER CONSIDERABLE PRESSURE FROM AVIATION INTERESTS TO "GET TOUGH" WITH US OPERATORS. THIS PRESSURE, TOGETHER WITH SENSE OF FRUSTRATION OVER INABILITY TO POLICE ADEQUATELY AFFINITY RULES ON US-ORIGINATING CHARTERS (WITHOUT WIDESPREAD DELAYING AND STRANDING OF PASSENGERS)

WILL HAVE VERY IMPORTANT BEARING ON UK ATTITUDE TOWARD
EXTENSION OF AFFINITY RULES. IN THESE CIRCUMSTANCES,
IF US HOPES TO HAVE AFFINITY CHARTERS TO UK CONTINUE,
WE BELIEVE IT IS IMPERATIVE THAT US BE AS FORTHCOMING
AS POSSIBLE IN TRYING TO DEVELOP AN APPROACH TO ENFORCE-
MENT EFFORT THAT WILL PROVIDE UK REASONABLE ASSURANCE
THAT AFFINITY RULES ARE BEING COMPLIED WITH AND THAT
AIRLINE OFFENDERS ARE PUNISHED. ACTION REQUESTED: US
VIEWS ON POSSIBILITY OF COORDINATING ENFORCEMENT EFFORTS
WITH UK.

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